

- b. "Vice chairperson"* shall act in the capacity of chairperson in the absence of that officer.
- c. "Secretary"* shall keep an accurate and complete record of all transactions of the board. Copies of all such records will become public record and will be on file in the board office, Lucas State Office Building, Des Moines, Iowa 50319-0075 or its designated office.
- d. "Superintendent of examinations"* shall supervise the examination and make arrangements for the holding of the examinations in a proper manner.

40.3(4) Governs its proceedings by Robert's Rules of Order, Revised.

40.3(5) Receive the administrative and clerical support of a board administrator, hired by the department, who:

- a.* Is not a member of the board.
- b.* Under guidance of the members of the board performs administrative activities relating to the department in the administration and enforcement of the laws relative to the practice of chiropractic.

40.3(6) Has the statutory authority to:

- a.* Administer, interpret, and enforce the laws and administrative rules relating to the practice of chiropractic;
- b.* Review or investigate, or both, upon written complaint or upon its own motion pursuant to other evidence received by the board, alleged acts or omissions which the board reasonably believes constitute cause under applicable law or administrative rule for licensee discipline;
- c.* Determine in any case whether an investigation, or further investigation, or a disciplinary proceeding is warranted;
- d.* Initiate and prosecute disciplinary proceedings;
- e.* Impose licensee discipline;
- f.* Petition the district court for enforcement of its authority with respect to licensees or with respect to other persons violating the laws which the board is charged with administering;
- g.* Establish and register peer review committees;
- h.* Refer to a registered peer review committee for investigation, review, and report to the board, any complaint or other evidence of an act or omission which the board reasonably believes to constitute cause for licensee discipline.

However, the referral of any matter shall not relieve the board of any of its duties and shall not divest the board of any authority or jurisdiction;

- i.* Determine and administer the annual renewal of licenses;
- j.* Establish and administer rules for continuing education requirements as a condition to license renewal.

645—40.4(151) Official communications. All official communications, including submissions and requests, should be addressed to the Board Administrator, Iowa Board of Chiropractic Examiners, Lucas State Office Building, Des Moines, Iowa 50319-0075.

645—40.5(151) Office hours. The office of the board is open for public business from 8 a.m. to 4:30 p.m., Monday to Friday of each week.

645—40.6(151) Meetings. Regular meetings of the board ordinarily are held at least quarterly. The board utilizes licensing examinations administered by the National Board of Chiropractic Examiners twice each year. At the discretion of the board, three-day licensing examinations may be administered by the board. These examinations may be in addition to national licensing examinations or in lieu of same. Information concerning the dates and locations for meetings and examinations may be obtained from the board's office.

645—40.7(151) Public meetings. All meetings of the board shall be open and public and all citizens of Iowa shall be permitted to attend any meeting, except as otherwise provided by statute.

40.7(1) The board may, by a vote of two-thirds of its members, hold a closed session for the following reasons:

a. To review or discuss records which are required or authorized by state or federal law to be kept confidential.

b. To discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosures would be likely to prejudice or disadvantage the position of the board in that litigation.

c. To discuss the contents of a licensing examination.

d. To initiate licensee disciplinary investigations or proceedings.

e. To discuss the decision to be rendered in a contested case conducted according to the provisions of Iowa Code chapter 17A.

f. To avoid disclosure of specific law enforcement matters, such as current or proposed investigations, which if disclosed would enable law violators to avoid detection.

g. To avoid disclosure of specific law enforcement matters, such as allowable tolerances or criteria for the selection, prosecution or settlement of cases, which if disclosed would facilitate disregard of requirements imposed by law.

h. To evaluate the professional competency of an individual whose appointment, hiring, performance or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation and that individual requests a closed session.

40.7(2) Reserved.

645—40.8(151) Petition to promulgate, amend or repeal a rule.

40.8(1) An interested person or other legal entity may petition the board requesting the promulgation, amendment or repeal of a rule.

40.8(2) The petition shall be in writing, signed by or on behalf of the petitioner and contain a detailed statement of:

a. The rule that the petitioner is requesting the board to promulgate, amend or repeal. Where amendment of an existing rule is sought, the rule shall be set forth in full with the matter proposed to be deleted therefrom enclosed in brackets and proposed additions thereto shown by underlining or bold-face.

b. Facts in sufficient detail to show the reasons for the proposed action.

c. All propositions of law to be asserted by petitioner.

d. Sufficient facts to show how petitioner will be affected by adoption, amendment or repeal of the rule.

e. The name and address of petitioner and of any other person known to be interested in the rule sought to be adopted, amended or repealed.

40.8(3) The petition shall be in typewritten or printed form, captioned BEFORE THE IOWA BOARD OF CHIROPRACTIC EXAMINERS, and shall be deemed filed when received by the board administrator.

40.8(4) Upon receipt of the petition the board administrator shall:

a. Within ten days mail a copy of the petition to any parties named therein. The petition shall be deemed served on the date of mailing to the last-known address of the party being served.

- b. Shall advise petitioner that petitioner has 30 days within which to submit written views.
- c. May schedule oral presentation of petitioner's view if the board so directs.
- d. Shall, within 60 days after date of submission of the petition, either deny the petition or initiate rule-making proceedings in accordance with Iowa Code chapter 17A.

40.8(5) In the case of a denial of a petition to promulgate, amend or repeal a rule, the board or its board administrator shall issue an order setting forth the reasons in detail for denial of the petition. The order shall be mailed to the petitioner and all other persons upon whom a copy of the petition was served.

645—40.9(151) Oral presentations. Prior to adoption, amendment, or repeal of any rule, the board shall give Notice of Intended Action by causing said notice to be published in the Iowa Administrative Bulletin. Written comments relating to the proposed action by the board may be submitted to the board at its official address no later than 20 days after the notice has been published.

The Administrative Rules Review Committee may, under the provisions of Iowa Code section 17A.8(6), on its own motion or on written request by any individual or group, review this proposed action at a regular or special meeting where the public or interested persons may be heard. An oral presentation shall be scheduled prior to the adoption, amendment or repeal of any rule(s) provided the request for presentation is in writing, received no later than 20 days after the notice has been published and the request for presentation is made by: 25 interested persons, a governmental subdivision, an agency, an association of 25 persons, or upon the discretion of the board.

40.9(1) The chairperson of the board or a presiding officer appointed by the board shall preside over the oral presentation.

a. The date, time and location of the oral presentation shall be set by the board. The appropriate individuals, governmental subdivisions, agencies or associations making the request shall be notified of said date, time and location of presentation by certified mail.

b. Any individual(s) may present either written or oral comments pertinent to the rule(s) for which the oral presentation has been scheduled. Any individual(s) desiring to make written comments shall submit these comments to the presiding officer prior to the presentation date. Any individual(s) desiring to make an oral presentation shall submit a written request to the board prior to the presentation date.

c. The authority of the chairperson of the board or presiding administrative law judge during the oral presentation includes:

- (1) Setting a ten-minute time limit on oral presentations if necessary;
- (2) Excluding any individual(s) who may be either disruptive or obstructive to the oral presentation; and

(3) Ruling that the oral presentation or discussion, or both, is not pertinent to the oral presentation.

d. The conduct of the chairperson of the board or presiding officer during the oral presentation shall include but need not be limited to:

- (1) Open the oral presentation and receive appearances.
- (2) Enter the oral presentation into the public record.
- (3) Receive oral presentations.
- (4) Read into the official public record written comments which have been submitted.
- (5) Adjourn the oral presentation.

40.9(2) Reserved.

645—40.10(151) Declaratory rulings.

40.10(1) Upon petition filed by any individual, partnership, corporation, association, governmental subdivision, private or public organization or state agency, the board may issue a declaratory ruling as to the applicability of statutes and rules, policy statements, decisions and orders under its jurisdiction.

40.10(2) A petition for a declaratory ruling shall be typewritten or printed and at the top of the first page shall appear in capitals the words: PETITION FOR DECLARATORY RULING BEFORE THE IOWA BOARD OF CHIROPRACTIC EXAMINERS.

40.10(3) The petition shall include the name and official title, if any, address and telephone number of each petitioner. If the request is at the behest of an entity mentioned in subrule 40.10(1) it shall name the entity.

40.10(4) The body of the petition shall contain:

- a. A detailed statement of facts upon which petitioner requests the board to issue its declaratory ruling.
- b. The statute, rule, policy statement, decision or order for which a ruling is sought.
- c. The exact words, passages, sentences or paragraphs which are the subject of inquiry.
- d. The specific questions presented for declaratory ruling.
- e. A consecutive numbering of each multiple issue presented for declaratory ruling.
- f. A statement as to how the agency should rule and why. A brief may be attached thereto.

40.10(5) The petition shall be filed either by serving it personally to the board administrator or by mailing it to the Board Administrator, Iowa Board of Chiropractic Examiners, Lucas State Office Building, Des Moines, Iowa 50319-0075.

40.10(6) The board administrator shall acknowledge receipt of petitions or return petitions not in substantial conformity with the above rules.

40.10(7) The board may decline to issue a declaratory ruling for the following reasons:

- a. A lack of jurisdiction.
- b. A lack of clarity of the issue and facts presented.
- c. The issue or issues presented are pending resolution by a court of Iowa or by the attorney general.
- d. The issue or issues presented have been resolved by a change in circumstances or by other means.
- e. The issue or issues are under investigation for purposes of formal adjudication.
- f. The petition does not comply with the requirements imposed by subrules 40.10(1) to 40.10(5).
- g. Where a ruling would necessarily determine the legal rights of other parties not represented in the proceeding.

40.10(8) In the event the board declines to make a ruling, the board administrator shall notify the petitioners of the fact and the reasons for the refusal.

40.10(9) When the petition is in proper form and has not been declined, the board shall issue a ruling disposing of the petition within a reasonable time after its filing.

40.10(10) Rulings shall be mailed to petitioners and to other parties at the discretion of the board administrator. Rulings shall be indexed and available for public inspection.

40.10(11) A declaratory ruling by the board shall have a binding effect upon subsequent board decisions and orders which pertain to the party requesting the ruling and in which the factual situation and applicable law are indistinguishable from that presented in the petition for declaratory ruling. To all other parties and in factual situations which are distinguishable from that presented in the petition, a declaratory ruling shall serve merely as precedent.

645—40.11(151) Rules pertaining to schools.

40.11(1) Rules pertaining to the practice of chiropractic at a chiropractic college clinic shall be equal to the standards established by the Council on Chiropractic Education existing as of February 1, 1991.

40.11(2) All chiropractic colleges in order to be approved by the board of chiropractic examiners shall first have status with the Commission on Accreditation of the Council on Chiropractic Education, as recognized by the U.S. Office of Education, existing as of February 1, 1991.

40.11(3) The following procedures are established for an institution to obtain equivalent approval by the board of examiners:

a. Standards. The standards against which the institution will be evaluated shall be those published and utilized by the Council on Chiropractic Education existing as of February 1, 1991.

b. Self-study. A comprehensive self-study shall be required of the applying institution which measures its performance against the objectives of the institution and the standards of the board of examiners. After review of the self-study the board shall render a decision that the self-study is either: (1) satisfactory, (2) unsatisfactory in terms of the report, or (3) unsatisfactory in terms of content. If unsatisfactory, the board will furnish the institution with a bill of particulars. An inspection of the institution shall not be made until the self-study is satisfactory.

c. Inspection. Inspection of the institution shall be conducted by an examining team selected by the board and shall consist of a minimum of five members. Two shall have doctorates in the basic sciences; one shall have a doctorate in college administration; and two shall be doctors of chiropractic.

(1) The inspection team shall determine firsthand if the applicant institution meets the established standards and is meeting its own institutional objectives.

(2) Expenses of the inspection team shall be borne by the applicant institution.

(3) The inspection team shall furnish the board with a comprehensive report of the team findings after having provided the institution with opportunity to comment on its findings.

d. Decision. The board of examiners will make its decision on the basis of the comprehensive report of the inspection team after providing the institution opportunity for a hearing on the report. If a member of the board has participated in the inspection, the member shall not participate in the decision-making process.

COLLEGES AND COLLEGE-BASED PROGRAMS

40.11(4) Students—treatment of patients.

a. Unlicensed practice by chiropractic interns and chiropractic residents. The board may approve the unlicensed practice of chiropractic in this state by a bona fide student of a chiropractic college which offers an approved preceptorship program, if the chiropractic college preceptorship program, the chiropractic preceptor and practice of chiropractic by the intern meet the criteria established by the Council on Chiropractic Education. The board may approve the unlicensed practice of chiropractic in this state by a chiropractic resident in an approved postgraduate chiropractic preceptorship program, if the postgraduate chiropractic preceptorship program, the chiropractic preceptor and the practice of chiropractic by the chiropractic resident meet the criteria established by the Council on Chiropractic Education.

b. Approved chiropractic college preceptorship programs. The board shall approve a chiropractic college preceptorship program which includes all of the following criteria:

(1) Is operated by a chiropractic college approved by the board. The board shall consider whether the college is accredited by the Council on Chiropractic Education, and shall also consider the degree of consumer protection provided by the defined standards and practices of the chiropractic college's preceptor program, as well as the degree of consumer protection demonstrated by the actual operation of the chiropractic college's preceptor program.

(2) Is an established component of the curriculum of the chiropractic college.

(3) Certifies to the board, on forms supplied by the school:

1. That all chiropractic interns who participate in the preceptorship program have met all requirements for graduation from the chiropractic college except for completion of the preceptorship period, and

2. That no chiropractic physician who is a preceptor shall supervise more than one chiropractic intern for the duration of a given preceptorship period.

(4) Certifies to the board on forms supplied by the school that all chiropractic physicians who participate as preceptors have been fully credentialed by the sponsoring chiropractic college.

(5) Certifies to the board on forms supplied by the school that the chiropractic preceptor and the chiropractic intern have agreed on the goals of the preceptor to be completed by the chiropractic intern.

(6) Upon request, provides a current list to the board of the chiropractic physicians in Iowa who are preceptors in the program.

c. *Approved postgraduate preceptorship programs.* The board shall approve a preceptorship program for the training of chiropractic residents which meets all of the following criteria:

(1) Is operated by a chiropractic college approved by the board. The board shall consider whether the college is accredited by the Council on Chiropractic Education, and shall also consider the degree of consumer protection provided by the defined standards and practices of the chiropractic college's preceptor program, as well as the degree of consumer protection demonstrated by the actual operation of the chiropractic college's preceptor program.

(2) Is an established postgraduate program of the chiropractic college.

(3) Certifies to the board, on forms supplied by the school:

1. That all chiropractic residents who participate in the postgraduate preceptorship program have graduated from a college of chiropractic approved by the board, and

2. That no chiropractic physician who is a preceptor shall supervise more than one chiropractic resident for the duration of a given preceptorship period.

(4) Certifies to the board on forms supplied by the school that all chiropractic physicians who participate as preceptors are fully credentialed in accordance with current guidelines for chiropractic preceptorship established by the Council on Chiropractic Education.

(5) Certifies to the board, on forms supplied by the college, that the chiropractic resident preceptor and the chiropractic resident have agreed on the goals of the preceptor program to be completed by the chiropractic resident.

(6) Upon request, provides to the board a current list of the chiropractic physicians in Iowa who are preceptors in the program.

d. *Approved chiropractic preceptors.* The board shall approve a chiropractic physician to be a chiropractic physician preceptor if the chiropractic physician meets all of the following conditions:

(1) Certifies to the board, on forms supplied by the school, that:

1. The chiropractic physician preceptor has been continuously licensed in the United States for the previous five years and currently holds a license in Iowa, that there are no pending disciplinary actions or malpractice awards granted against the chiropractic physician preceptor, and that there have been no board disciplinary actions taken within the last three years against the chiropractic physician preceptor.

2. The chiropractic physician preceptor is fully credentialed in accordance with current guidelines for chiropractic preceptorship established by the Council on Chiropractic Education.

3. The chiropractic physician preceptor is responsible for the practice of the chiropractic intern or chiropractic resident who is accepted into a preceptorship practice.

4. The chiropractic physician preceptor will identify the chiropractic intern or chiropractic resident to the patients of the preceptorship practice in such a way that no patient will tend to be misled as to the status of the chiropractic intern or chiropractic resident. The chiropractic intern or chiropractic resident will wear an identification badge at all times in the presence of preceptorship patients.

5. The chiropractic physician preceptor will supervise no more than one chiropractic intern or chiropractic resident for the duration of a given preceptorship period.

6. The chiropractic physician preceptor will exercise direct, on-premises supervision of the chiropractic intern or chiropractic resident at all times during which the chiropractic intern or chiropractic resident is engaged in any facet of patient care in the chiropractic physician preceptor's clinic.

e. Termination of preceptorship. A preceptorship shall terminate upon the occurrence of the earliest applicable of the following events.

(1) For a chiropractic intern participating in a preceptorship program, graduation from the college of chiropractic operating the program.

(2) For a chiropractic resident participating in a postgraduate preceptorship program, the passage of 12 months since graduation from a board-approved college of chiropractic.

(3) For either a chiropractic intern preceptorship or a chiropractic resident preceptorship, any of the following:

1. The filing of formal disciplinary decisions against a chiropractic preceptor, the nature of which is a criminal offense and the circumstances of which substantially relate to the practice of chiropractic.

2. The filing of formal disciplinary decisions against a chiropractic physician preceptor for violation of statutes or administrative rules pertaining to the practice of chiropractic.

3. The granting of a malpractice award against a chiropractic physician preceptor in a civil action for malpractice.

40.11(5) The student enrolled at an approved chiropractic college in the state of Iowa will be able to treat patients under the license of the clinic director or designated licensed doctor associated with the clinic of the college who must be a currently licensed Iowa chiropractic physician and the board so notified of the name of the doctor. The clinic will operate under the license of the clinic director or designated licensed doctor associated with the clinic.

645—40.12(151) General requirements.

40.12(1) Beginning July 1, 1982, the licensure period shall be from July 1 of the even-numbered year to June 30 of the subsequent even-numbered year.

40.12(2) The board shall assess a penalty equal to the renewal fee if more than 30 days have passed since the expiration date.

40.12(3) Any licensee who allows the license to lapse by failing to renew within one year of the expiration date shall be required to pay the penalty set forth in 40.12(2) and all past renewal fees then due provided the fees shall not exceed \$500 as computed by the board and show evidence of 30 hours of accredited continuing education for each lapsed year, which constitutes an organized program of learning, and which contributes directly to the professional competency of the licensee. The hours need not exceed 90 hours for reinstatement, if obtained within the past two years, except when there is a demonstrated deficiency for specialized education as determined by the board through a personal interview with the applicant. A licensee may be reinstated without examination upon approval by the board.

40.12(4) The board may affiliate with the Federation of Chiropractic Licensing Boards.

40.12(5) Any official action or vote of the board taken by mail or by other means shall be preserved by the board administrator in the same manner as the minutes of the regular meetings.

40.12(6) Any legal proceedings where applicable shall be conducted in a manner as stipulated in Iowa Code chapters 17A, 147, 151.

40.12(7) Persons licensed to practice chiropractic shall keep their license publicly displayed in the primary place of practice. When a person licensed to practice chiropractic changes residence or place of practice, notification shall be sent to the Iowa Board of Chiropractic Examiners, Lucas State Office Building, Des Moines, Iowa 50319-0075.

40.12(8) Every license to practice chiropractic shall expire in multiyear intervals and be renewed as determined by the board upon application by the licensee, without exception. Application for renewal shall be made in writing to the board accompanied by the required fee at least 30 days prior to the expiration of such license. Every renewal shall be displayed in connection with the original license. The board shall notify each licensee by mail prior to the expiration of a license. Failure to renew the license within a reasonable time after the expiration shall not invalidate the license, but a reasonable penalty may be assessed by the board.

This rule is intended to implement Iowa Code sections 147.7, 147.9 and 147.10.

645—40.13(151) Rules for conducting examinations.

40.13(1) The applicant shall submit a completed application on a form prescribed by the board with required credentials and fee. The completed application must include the following:

a. A photostatic copy of chiropractic diploma (no larger than 8½ × 11 inches) from an approved college or a letter of graduation intent from a college registrar within 120 days of examination date. However, no license to practice will be issued until the board administrator has received a copy of the signed diploma.

b. Rescinded IAB 2/12/97, effective 3/19/97.

c. Official transcript of grades of the National Board of Chiropractic Examiners.

d. The applicant shall have received certification from the National Board of Chiropractic Examiners attesting to the successful completion of the required examination after July 1, 1973, or a basic science certificate issued prior to July 1, 1973.

(1) Effective August 1, 1976, all electives of the National Board examination are required.

(2) Effective January 1, 1987, Part III of the National Board examination is required.

(3) Effective January 1, 1996, Part IV of the National Board examination is required.

e. Each applicant shall submit three written character references on the application. The references shall not be from members of the chiropractic profession.

f. Each applicant must include a record of the number and date of chiropractic license obtained in other states, if any, the manner in which such license or licenses were obtained, and a statement as to whether or not any license so issued has ever been suspended or revoked.

g. Each application shall include a chronologic statement as to all the places where the candidate has practiced, if any, type of practice engaged in and the period of time so engaged.

h. One passport-size photograph of the applicant taken within the previous six months.

i. A final transcript sent directly from a board-approved college of chiropractic.

40.13(2) Any candidate applying for licensure may be required to appear for a personal interview before the board or before a member thereof.

40.13(3) The board shall require written, oral or practical examinations of any applicant.

40.13(4) Any candidate who fails the examination may take a second examination at a regularly scheduled examination upon payment of the examination fee. The candidate shall be required to repeat the entire examination if a previous examination is failed. Additional repeats of the examination are permitted at the discretion of the board.

40.13(5) Examinations given by the board will be held at a location and time specified by the board.

40.13(6) All applicants matriculating after October 1, 1975, will be graduated from a college having status with the C.C.E. (Council on Chiropractic Education) as of the date of the applicant's graduation. (See 40.11(151).)

645—40.14(151) Licensure by reciprocity or endorsement.

40.14(1) Each applicant shall submit a completed application form accompanied by a fee of \$100.

40.14(2) A license to practice chiropractic by reciprocity or by endorsement may be issued on the basis of an examination in substantially all of the subjects required by this board given by a state examining board having reciprocal or endorsement relations with the board, provided, however, that the applicant must comply with all other requirements for licensure by examination in this state.

40.14(3) If any state with which this state has reciprocal or endorsement relations places any limitations or restrictions upon licentiates of this state, the same limitations or restrictions may be imposed upon licentiates of such state applying for admission to practice in this state on the basis of reciprocity or endorsement.

40.14(4) The statement made in the application must be reviewed and verified by the state examining board issuing the original license, certifying under seal as to the subjects in which the applicant was examined, the grade obtained in each subject and the general average attained in the entire examination.

40.14(5) In all cases the board reserves the right to review the examination papers and grades upon which reciprocal or endorsement certification may be granted before accepting the same.

40.14(6) No reciprocal license or license by endorsement shall be issued except on the basis of a license received by examination. The applicant must have had two years of full-time practice before applying for license by reciprocity or endorsement.

40.14(7) Rescinded IAB 8/19/92, effective 9/23/92.

40.14(8) Rescinded IAB 8/19/92, effective 9/23/92.

40.14(9) The chiropractic examiners may require written, oral or a practical examination of any applicant for licensure by reciprocity or endorsement.

645—40.15(151) License renewal date. A license to practice chiropractic shall expire on the thirtieth of June of every even-numbered year.

645—40.16(151) License-examination-renewal fees. The following fees shall be collected by the board:

40.16(1) For the basic application fee required of all applicants, \$50. For a license to practice chiropractic, issued upon the basis of examination given by the chiropractic examiners, \$225.

40.16(2) For the biennial renewal fee of a license to practice chiropractic, \$100. Renewal fees shall be received by the board before the end of the last month of the renewal period.

40.16(3) For a certified statement that a licensee is licensed in this state, \$10.

40.16(4) For a duplicate license, which shall be so designated on its face, upon satisfactory proof the original license issued by the Iowa department of public health has been destroyed or lost, or if necessary for display in additional place of practice, \$10.

40.16(5) For a penalty fee for failure to complete required continuing education within the compliance period, \$100.

This rule is intended to implement Iowa Code section 147.80.

645—40.17(151) Specified forms to be used. All applications for examinations, certificates and licenses shall be on forms prescribed by the board. These forms may include, but not be limited to, the following, and where practicable, any one or more of the following forms may be consolidated into a single form.

Board Form:

Form Title:

- | | |
|----|----------------------------------------------------------------------------------------|
| 1. | Application for a license to practice chiropractic on the basis of examination. |
| 2. | Application for reinstatement of license to practice chiropractic. |
| 3. | Application for renewal of a chiropractic license. |
| 4. | Complaint form. |
| 5. | Report of continuing chiropractic education. |
| 6. | Certificate of exemption from continuing education requirements. |
| 7. | Application for waiver of minimum education requirements due to disability or illness. |

645—40.18(151) Temporary certificate.

40.18(1) The board may, in its discretion, issue a temporary certificate authorizing the applicant to practice chiropractic whenever, in the opinion of the board, a need exists and the applicant possesses the qualifications prescribed by the board for the certificate, which shall be substantially the same as those required under Iowa Code chapter 151. A temporary certificate shall be issued for one year and, at the discretion of the board, may be annually renewed, not to exceed two additional years, at a fee of \$100 per year. The board may require completion of continuing education hours for renewal of a temporary certificate.

40.18(2) Each applicant shall:

a. Submit a completed application on a form prescribed by the board with required credentials and fee. The completed application must be on file at least 30 days prior to the date of the examination and must include the following:

(1) A photostatic copy of chiropractic diploma (no larger than 8½ x 11 inches) from an approved college or a letter of graduation intent from a college registrar within 120 days of examination date. However, no license to practice will be issued until the board administrator has received a copy of the signed diploma.

(2) A final transcript sent directly from a board-approved college of chiropractic.

(3) Official transcript of grades of the National Board of Chiropractic Examiners.

b. Submit documentation from the National Board of Chiropractic Examiners attesting to the successful completion of the required examination after July 1, 1973, or a basic science certificate issued prior to July 1, 1973.

(1) Effective August 1, 1976, all electives of the National Board examinations are required.

(2) Effective January 1, 1987, Part III of the National Board examinations is required.

(3) Effective January 1, 1996, Part IV of the National Board examinations is required.

c. Submit three written character references on the application form. The references shall not be from members of the chiropractic profession.

d. Include a record of the number and date of chiropractic license(s) obtained in other states, if any, the manner in which such license or licenses were obtained, and a statement as to whether or not any license so issued has ever been suspended or revoked.

e. Include a chronological statement as to all the places where the candidate has practiced, if any, type of practice engaged in and the period of time so engaged.

f. Submit two copies of a passport-size photograph of the applicant taken within the previous six months.

40.18(3) Applicants may be required to satisfactorily complete a written, oral, or practical examination. In any case, the board may require the applicant to appear for a personal interview before the board or a member of the board.

40.18(4) The temporary certificate may be canceled at any time without a hearing for reasons deemed sufficient to the board. The certificate may be canceled:

a. For any of the grounds for which licensee discipline may be imposed.

b. If the temporary certificate holder applies for a permanent license, is examined, and fails the examination.

Cancellation will be effective three days after mailing the notice of cancellation by registered mail.

This rule is intended to implement Iowa Code section 151.12.

UTILIZATION AND COST CONTROL REVIEW

645—40.19(514F) Utilization and cost control review.

40.19(1) The board shall establish U.C.C.R. (Utilization and Cost Control Review) committee(s). The name(s) of the committee(s) shall be on file with the board and available to the public. The designation of the committee(s) shall be reviewed annually.

40.19(2) Members of the U.C.C.R. committee shall:

- a.* Hold a current license.
- b.* Have practiced chiropractic in the state of Iowa for a minimum of five years prior to appointment.
- c.* Be actively involved in a chiropractic practice during the term of appointment as a U.C.C.R. committee member.
- d.* Have no pending board disciplinary actions or discipline taken during the three years prior to appointment and no discipline pending or taken during the period of appointment.
- e.* Have no malpractice awards granted against the appointed committee member during the three years prior to appointment or during the period of appointment.
- f.* Not assist in the review or adjudication of claims in which the committee member may reasonably be presumed to have a conflict of interest.
- g.* Have completed a utilization review course that has been previously approved by the board.

40.19(3) Procedures for utilization and cost control review. A request for review may be made to the board by any person governed by the various chapters of Title XX of the Code, self-insurers for health care benefits to employees, other third-party payers, chiropractic patients or licensees.

a. There shall be a reasonable fee, as established by the board, for services rendered, which will be made payable directly to the U.C.C.R. committee. The committee shall make a yearly accounting to the board.

b. A request for service shall be submitted to the executive director of the U.C.C.R. committee on an approved submission form and shall be accompanied by four copies of all information. All references to identification and location of patient and doctor shall be deleted and prepared for blind review by the executive director of the U.C.C.R. committee. The information shall be forwarded to the U.C.C.R. committee.

c. The U.C.C.R. committee shall respond in writing to the parties involved with its findings and recommendations within 90 days. The committee shall review the appropriateness of levels of treatment and give an opinion as to the reasonableness of charges for diagnostic or treatment services rendered as requested. The U.C.C.R. committee shall submit a quarterly report of their activities to the board. The U.C.C.R. committee shall meet at least annually with the board chair or the board chair's designee.

40.19(4) Types of cases reviewed shall include:

- a.* Utilization.
 - (1) Frequency of treatment,
 - (2) Amount of treatment,
 - (3) Necessity of service,
 - (4) Appropriateness of treatment.
- b.* Usual and customary service.

40.19(5) Criteria for review may include but are not limited to:

- a.* Was diagnosis compatible and consistent with information?
- b.* Were X-ray and other examination procedures adequate, or were they insufficient or nonrelated to history or diagnosis?
- c.* Were clinical records adequate, complete, and of sufficient frequency?
- d.* Was treatment consistent with diagnosis?

e. Was treatment program consistent with scientific knowledge and academic and clinical training in accredited chiropractic colleges?

f. Were charges reasonable and customary for the service?

40.19(6) Members of the U.C.C.R. committee shall observe the requirements of confidentiality imposed by Iowa Code chapter 272C.

40.19(7) Action of the U.C.C.R. committee does not constitute an action of the board.

This rule is intended to implement Iowa Code sections 514F.1 and 514F.2.

645—40.20 Reserved.

DISCIPLINE

645—40.21(151,272C) General. The board has authority to impose discipline for any violation of the chiropractic practice Acts or the rules promulgated thereunder. The board also has authority to impose discipline for violations of other provisions of the Iowa Code and the other rules promulgated thereunder to the extent said provisions concern the practice of chiropractic.

645—40.22(151,272C) Method of discipline. The board has authority to impose the following disciplinary sanctions:

- a.* Revocation of license.
- b.* Suspension of license until further order of the board or for a specified period.
- c.* Prohibit permanently, until further order of the board or for a specified period, the engaging in specified procedures, methods or acts.
- d.* Probation.
- e.* Require additional education or training.
- f.* Require a reexamination.
- g.* Impose civil penalties not to exceed \$1,000.
- h.* Issue citation and warning.
- i.* Such other sanctions allowed by law as may be appropriate.

645—40.23(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

- a.* The relative seriousness of the violation as it relates to assuring the citizens of this state a high standard of professional care.
- b.* The facts of the particular violation.
- c.* Any extenuating circumstances or other countervailing considerations.
- d.* Number of prior violations or complaints.
- e.* Seriousness of prior violations or complaints.
- f.* Whether remedial action has been taken.
- g.* Such other factors as may reflect upon the competency, ethical standards and professional conduct of the licensee.

645—40.24(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 40.22(151,272C) including civil penalties in an amount not to exceed \$1,000, when the board determines that the licensee is guilty of the following acts or offenses:

40.24(1) Fraud in procuring a license.

a. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice chiropractic and includes false representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or attempting to file or filing with the board or the state department of health any false or forged diploma, or certificate or affidavit or identification or qualification in making an application for a license in this state.

b. Reserved.

40.24(2) Professional incompetency.

a. Professional incompetency includes, but is not limited to:

(1) A substantial lack of knowledge or ability to discharge professional obligations within the scope of the chiropractic physician's practice;

(2) A substantial deviation by the chiropractic physician from the standards of learning or skill ordinarily possessed and applied by other chiropractic physicians in the state of Iowa acting in the same or similar circumstances;

(3) A failure by a chiropractic physician to exercise in a substantial respect that degree of care which is ordinarily exercised by the average chiropractic physician in the state of Iowa acting in the same or similar circumstances;

(4) A willful or repeated departure from or the failure to conform to the minimal standard or acceptable and prevailing practice of chiropractic in the state of Iowa.

(5) Failure to maintain clinical and fiscal records in support of services rendered for a minimum of five years from one of the following dates as applicable. For the purposes of this rule, clinical records shall include all laboratory and diagnostic imaging studies.

1. For an adult patient in an uncontested case, the last office visit.

2. For a minor patient in an uncontested case, the last office visit plus the age of 18 years.

(6) Failure to comply with the health department standards for radiation-emitting equipment as used by a doctor of chiropractic, set forth in Iowa Code chapter 136C.

b. Reserved.

40.24(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

a. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession includes, but is not limited to, an intentional perversion of the truth, either orally or in writing, by a chiropractic physician in the practice of chiropractic and includes any representation contrary to the chiropractic physician's legal or equitable duty, trust or confidence and is deemed by the board to be contrary to good conscience, prejudicial to the public welfare and may operate to the injury of another. Activities under this paragraph include, but are not limited to:

(1) Alleging superiority in any way.

(2) Guarantees of any type.

(3) Improper titles.

(4) Inflated or unjustified expectations of favorable results.

(5) Self-laudatory claims of specialty practice for which credentials do not exist.

(6) Representations that patients easily misunderstand.

(7) Claims of extraordinary skills that are not recognized in the profession.

b. Engaging in unethical conduct includes, but is not limited to, a violation of the standards and principles of chiropractic ethics and code of ethics as set out in rule 40.51(147,272C) as interpreted by the board.

c. Practice harmful or detrimental to the public includes, but is not limited to, the failure of a chiropractic physician to possess and exercise that degree of skill, learning and care expected of a reasonably prudent chiropractic physician acting in the same or similar circumstances in this state or when a chiropractic physician is unable to practice chiropractic with reasonable skill and safety to patients as a result of a mental or physical impairment or chemical abuse.

40.24(4) Habitual intoxication or addiction to the use of drugs.

a. Habitual intoxication or addiction to the use of drugs includes, but is not limited to, the inability of a chiropractic physician to practice chiropractic with reasonable skill and safety by reason of the excessive use of alcohol, drugs, narcotics, chemicals or other type of material on a continuing basis, or the excessive use of alcohol, drugs, narcotics, chemicals or other type of material which may impair a chiropractic physician's ability to practice the profession with reasonable skill and safety.

b. Reserved.

40.24(5) Conviction of a felony related to the profession or occupation of the licensee, or the conviction of any felony that would affect the licensee's ability to practice within a profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

a. Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within a profession includes, but is not limited to, the conviction of a chiropractic physician who has committed a public offense in the practice of the profession which is defined or classified as a felony under state or federal law, or who has violated a statute or law designated as a felony in this state, another state, or the United States, which statute or law relates to the practice of chiropractic, or who has been convicted of a felonious act, which is so contrary to honesty, justice or good morals, and so reprehensible as to violate the public confidence and trust imposed upon the licensee as a chiropractic physician in this state.

b. Reserved.

40.24(6) Fraud in representations as to skill or ability.

a. Fraud in representations as to skill or ability includes, but is not limited to, a chiropractic physician having made misleading, deceptive or untrue representations as to the chiropractic physician's competency to perform professional services for which the chiropractic physician is not qualified to perform by training or experience.

b. Reserved.

40.24(7) Use of untruthful or improbable statements in advertisements.

a. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a chiropractic physician in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation and includes statements which may consist of, but are not limited to:

- (1) Inflated or unjustified expectations of favorable results.
- (2) Self-laudatory claims that imply that the chiropractic physician is a skilled chiropractic physician engaged in a field or specialty of practice for which the chiropractic physician is not qualified.
- (3) Representations that are likely to cause the average person to misunderstand; or
- (4) Extravagant claims or to proclaim extraordinary skills not recognized by the chiropractic profession.

b. Reserved.

40.24(8) Willful or repeated violations of the provisions of this Act.

a. Willful or repeated violations of the provisions of this Act includes, but is not limited to, a chiropractic physician having intentionally or repeatedly violated a lawful rule or regulation promulgated by the board of chiropractic examiners or the state department of health or violated a lawful order of the board or the state department of health in a disciplinary hearing or has violated the chiropractic practice Acts or rules promulgated thereunder.

b. Reserved.

40.24(9) Violating a statute or law of this state, another state, or the United States, without regard to its designation as either felony or misdemeanor, which statute or law relates to the practice of chiropractic.

40.24(10) Revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or failure by the licensee to report in writing to the board of chiropractic examiners revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or both.

40.24(11) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice chiropractic.

40.24(12) Being guilty of a willful or repeated departure from, or the failure to conform to, the chiropractic practice Acts or rules promulgated therein. An actual injury to a patient need not be established.